

28th Jan., 2026
Item no.M/L 1228
Court No. 18
Pradip, A.R.(Ct.)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 16893 of 2022**

In the matter of :

Shyama Prosad Das

.... Petitioner

VS.

The State of West Bengal & Ors.

....Respondents

For the Petitioner:

Mr. Robiul Islam
Mr. Masooq Rahaman

....Advocates

1. None represents the respondents despite service.
2. Affidavit of service and the notice of upgradation filed in Court today are taken on record.
3. The case made out by the petitioner is that he was appointed in the post of clerk in accordance with the resolution adopted in the meeting of the managing committee of the school in the year 2002. The appointment letter of the petitioner mentions that the appointment is on temporary basis.
4. The petitioner claims that he is in service since 2002. There are two posts of clerk sanctioned by the School Education Directorate, one of which is still vacant.
5. The petitioner prays for approval of his appointment in the said vacant post of clerk.
6. Learned advocate for the petitioner relies on the judgment delivered by the Hon'ble Supreme Court in the matter of **Jaggo Vs. Union of India & Ors. and Anita & Ors. Vs. Union of India & Ors.**

reported in **AIR 2025 SC 296** wherein the Court was pleased to set aside the terminal order which was passed against the employees and directed the employer to regularize their services forthwith.

7. Learned advocate for the petitioner submits that even though the service of the petitioner was temporary but as the petitioner rendered service continuously for such a long period, he is entitled to be regularized in service.
8. As the respondents are not being represented, the Court is unaware with regard to the factual aspects of the matter. What appears from the documents annexed to the writ petition is that, the petitioner was appointed as per the resolution adopted in the meeting of the managing committee which clearly mentions that on account of retirement of a clerk in the school, the petitioner along with one Subrata Kumar Ghosh was engaged to serve as clerk.
9. There is nothing on record to suggest that any selection was conducted to engage the petitioner as clerk in the school. The petitioner was simply cherry picked and appointed as clerk.
10. There is no further resolution of the managing committee to suggest that the service of the petitioner was continued. There is an experience certificate annexed to the writ petition issued by the headmaster of the school and counter signed by the Secretary of the school dated 15th February, 2016 which mentions that the petitioner was appointed as clerk with effect from 6th February, 2002 and the same is continuing till date with entire satisfaction of all concerned.
11. In 2010, two posts of clerk were sanctioned by the School Education Department. Permission was granted to the school to fill up the said two posts.

12. Learned advocate for the petitioner submits that one of the sanctioned posts of clerk is still vacant. The reason for not filling up the sanctioned vacancy for so many years is not known to the Court.
13. By merely relying on the decision passed by the Hon'ble Supreme Court in the matter of Jaggo (supra), the petitioner cannot pray for regularization of service. The petitioner ought to show some document in support of the submission that his initial appointment was made after following a regular selection process.
14. In Jaggo (supra) the Court noted that the entry of the employees was not through any illegal or surreptitious route. The same implies that a regular selection process was conducted for appointing the employees in contractual/part time work. Same is not the case here.
15. As the petitioner claims to be in service on and from 2002 he ought to have participated in the subsequent recruitment process conducted by the school for filling up the sanctioned post of clerk. There is no averment made in the writ petition as to whether the petitioner participated in the recruitment process for appointment of clerk.
16. In 2022, the instant writ petition was filed seeking regularization in service.
17. In absence of any supporting law permitting regularization of employees appointed by the school without a regular selection process, the prayer of the petitioner cannot be allowed. The writ petition, accordingly, fails and is hereby dismissed.
18. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)